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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/112,020	07/08/1998	KATSUHIKO AOKI	1945-104R	6424

6449 7590 03/19/2004

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

EXAMINER

VUONG, QUOCHIE B

ART UNIT	PAPER NUMBER
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2685

18

DATE MAILED: 03/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address : COMMISSIONER OF PATENTS AND TRADEMARKS
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/112,020	07/08/1998	KATSUHIKO AOKI	1945-104R

EXAMINER	
DUOCHIEU VUONG	
ART UNIT	PAPER NUMBER
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DATE MAILED:

This is a communication from the examiner in charge of your application.

COMMISSIONER OF PATENTS AND TRADEMARKS

1. ☒ The communication filed 12/29/2003 is informal/non-responsive for the reason(s) checked below and should be corrected. APPLICANT IS GIVEN ONE MONTH FROM THE DATE OF THIS LETTER OR UNTIL THE EXPIRATION OF THE PERIOD FOR RESPONSE SET IN THE LAST OFFICE ACTION (WHICHEVER IS LONGER) WITHIN WHICH TO CORRECT THE INFORMALITY.
- a. ☐ The amendment to claim(s) _____, filed _____, fails to comply with the provisions of 37 C.F.R. 1.121 and is accordingly held to be non-responsive. A supplemental paper correcting the informal portions and complying with the rule is required.
- b. ☐ The paper is unsigned. A duplicate paper or ratification, properly signed, is required.
- c. ☐ The paper is signed by _____, who is not of record. A ratification or a new power of attorney with a ratification, or a duplicate paper signed by a person of record, is required.
- d. ☐ The communication is presented on paper which will not provide a permanent copy. A permanent copy, or a request that a permanent copy be made by the Office at applicant's expense, is required, see M.P.E.P. 714.07.
- e. ☒ Other Please see attachment.
2. ☐ In accordance with applicant's request, THE PERIOD FOR RESPONSE FROM THE OFFICE ACTION DATED _____ IS EXTENDED TO RUN _____ MONTH(S).
No further extension will be granted unless approved by the Commissioner. 37 C.F.R. 1.136 (b)
3. ☐ Receipt is acknowledged of papers submitted under 35 U.S.C. 119 which papers have been made of record in the file.
4. ☐ Other

Response to Amendment

1. The reply filed on 12/29/2003 is not fully responsive to the Decision by Board of Patent Appeals and Interferences because of the following matter(s): Applicant amends the affirmed rejected claims 19 and 23 in addition to claim 1. See 37 CFR 1.196 (b) (MPEP Section 1214.01 (2)).

The new ground of rejection of independent claim 1 in the Board's decision leaves the evaluation of the dependent claims (with regard to the independent claim 1) to the examiner (see Board decision page 9 and admitted by the Applicant on page 1 of the reply). However, it does not suggest any evaluation of the affirmed rejected claims 19-26.

Applicant states on page 2 of the reply that the rejection of claims 19-16 was not affirmed by the Board. Examiner, however, does not agree with the Applicant. Applicant's attention is directed to the conclusion of the Board's decision (page 11), which clearly affirms the examiner rejection of claims 19-26 under 35 U.S.C. § 103(a). The MPEP Section 1214.01 (2) states that if the Board's decision in which the rejection under 37 CFR 1.196(b) was made includes an affirmation of the examiner's rejection, **the basis of the affirmed rejection is not open to further prosecution.**

For the reasons above, examiner believes that the amendment to the affirmed rejected claims 19 and 23 is inappropriate.

Applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in

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order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

2. If the Applicant would like the reply to be considered a Petition to the Commissioner under 37 CFR 1.181, a Petition is required.

Conclusion

3. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314

Hand-delivered responses should be brought to Crystal Park II, 2021 Crystal Drive, Arlington VA 22202, FI 6th.

Any inquiry concerning this communication from the examiner should be directed to Quochien B. Vuong whose telephone number is (703) 306-4530. The examiner can normally be reached on Monday through Friday from 9:30 a.m. to 6:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost, can be reached on (703) 305-4778.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer service whose telephone number is (703) 306-0377.



QUOCHIE B. VUONG
PRIMARY EXAMINER

Quochien B. Vuong

Mar. 16, 2004.